

THE CITY OF NORFOLK



To the Honorable Council
City of Norfolk, Virginia

January 25, 2022

From: John S. Rhamstine
Director of Cultural Facilities

Subject: Facilities Use Agreement-Norfolk
Admirals 2023 ECHL All-Star Game

Reviewed:

Trista Pope, Deputy City Manager

Ward/Superward: 2/6

Approved:

Dr. Larry H. Filer II, City Manager

Item Number: R-18

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** PCE 811, LLC d/b/a Norfolk Admirals
201 E. Brambleton Ave. Norfolk, VA 23510

III. **Description:**
This agenda item is an ordinance to approve a Facilities Use Agreement between the City of Norfolk and the Norfolk Admirals for use of Scope for the ECHL Hockey Tournament.

IV. **Analysis:**
The Norfolk Admirals will be hosting the ECHL All-Star Game in January 2023. Surrounding this event there will be Youth Tournaments hosted at Scope and the NHL's Stanley Cup to the area as an additional draw for attendees.

V. **Financial Impact:**
The City will pay the applicant (Norfolk Admirals) in the amount of \$200,000 with a potential additional \$100,000.00 for the booking of the ECHL All-Star Tournament Game at Scope Arena in 2023. The funds for such guarantee will be paid out of account 1000-16-067-5307-903 through the programming funds for Cultural Facilities, Arts and Entertainment

VI. Environmental:

N/A

VII. Community Outreach/Notification:

Public notification for this agenda item was conducted through the City of Norfolk's agenda notification process

VIII. Board/Commission Action: N/A**IX. Coordination/Outreach:**

This letter and ordinance have been coordinated with the City Manager's Office and the City Attorney's Office.

Supporting Material from the Department of Cultural Facilities, Arts and Entertainment and the City Attorney's Office:

- Ordinance
- Ordinance Exhibit A - Facilities Use Agreement

Supporting Material:

- EXHIBIT A-FINAL DRAFT ECHL Tournament Agreement 2023-1-19-2022 (PDF)

Form and Correctness Approved:

BAP

Pursuant to Section 72 of the City Charter, I hereby certify that the money required for this item is in the city treasury to the credit of the fund from which it is drawn and not appropriated for any other purpose

By: _____

Office of the City Attorney

Contents Approved:

By: _____

Seven Venues/Civic Facilities



Shenette Felton, Director of Finance

NORFOLK, VIRGINIA

Ordinance No.

AN ORDINANCE APPROVING A FACILITIES USE AGREEMENT BY AND BETWEEN THE CITY OF NORFOLK, AS OWNER, AND PCE 811, LLC D/B/A NORFOLK ADMIRALS (NORFOLK CI), AS LICENSEE, FOR THE NORFOLK ADMIRALS 2023 ECHL ALL-STAR GAME.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the Facilities Use Agreement between the City of Norfolk, as Owner, and PCE 811, LLC d/b/a Norfolk Admirals (Norfolk CI), as Licensee, for the Norfolk Admirals 2023 ECHL All-Star Game, a copy of which is attached hereto as Exhibit A, is hereby approved.

Section 2:- That the City Manager is authorized to correct, amend, or revise the Facilities Use Agreement as he may deem necessary in order to carry out the intent of the Council, subject however to approval as to form and correctness by the Office of the City Attorney.

Section 3:- That this ordinance shall be in effect from and after the date of its adoption.

ATTACHMENTS

Exhibit A - Facilities Use Agreement (20 pages)

CERTIFICATION OF FUNDING

Account No.: 1000-16-067-5307-903

Amount: \$100,000.00

FACILITIES USE AGREEMENT

BY AND BETWEEN

**CITY OF NORFOLK, by its DEPARTMENT
OF CIVIC FACILITIES**

and

PCE 811, LLC, d/b/a Norfolk Admirals (Norfolk CI)

Venue:

Norfolk Scope Arena

Name of Event:

Norfolk Admirals 2023 ECHL All-Star Game

Date of Event:

January 12-16, 2023

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Event: ECHL All-Star Game

FACILITIES USE AGREEMENT

THIS FACILITIES USE AGREEMENT (together with the Exhibits attached hereto, the "**Agreement**") is dated as of March 22, 2021, by and between **CITY OF NORFOLK, by its DEPARTMENT OF CIVIC FACILITIES**, with an address at PO Box 1808, Norfolk, VA 23501 ("**Owner**") and **PCE 811, LLC, d/b/a Norfolk Admirals (Norfolk CI)**, with an address of 201 E. Brambleton Ave. Norfolk, VA 23510 ("**Licensee**").

BACKGROUND

Owner is a political subdivision of the Commonwealth of Virginia, enjoying sovereign and governmental immunity. Owner owns a facility commonly known as Norfolk Scope Arena ("**Facility**"), located at 201 East Brambleton Avenue, Norfolk, Virginia 23510. Licensee desires to use all or a portion of the Facility, as set forth below, for the purposes stated herein. Owner desires to grant to Licensee, and Licensee hereby accepts from Owner, the right to use certain areas of the Facility in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises, covenants, and agreements herein contained, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Use of the Facility.

(a) The parties acknowledge that this Agreement is a license only, and Owner hereby grants Licensee, upon the terms and conditions set forth herein, including the terms and conditions set forth in Exhibit A, Exhibit B, Exhibit C, Exhibit D, and Exhibit E attached hereto and made a part hereof, the right to use those areas of the Facility described on Exhibit A attached hereto and incorporated herein ("**Authorized Areas**"), including all improvements, furniture, fixtures, easements, rights of ingress and egress, and appurtenances thereto, during the dates and times set forth on Exhibit A (each such date and time, an "**Event**"). It is expressly understood by the parties hereto that the Facility shall be vacated by Licensee and all persons participating in or attending an Event hereunder on or prior to the end-time of the last Event listed on Exhibit A hereto ("**Expiration Time**") and, as such, Licensee shall arrange to have all Events and activities related thereto cease within a reasonable time prior to the Expiration Time to allow ample time for the Facility to be completely vacated on or prior to the Expiration Time.

(b) In the event Licensee desires to use the Authorized Areas or any other portion of the Facility at any time other than during the dates and times delineated on Exhibit A, Licensee shall request from Owner prior written permission to use such areas of the Facility. In the event such permission is granted, Licensee shall pay as an additional fee an amount equal to the sum of Owner's actual costs for performing its obligations under this Agreement during the date(s) and time(s) requested, and a fee in an amount determined by Owner to represent a fair value for use of such additional areas of the Facility during such date(s) and time(s).

(c) Licensee acknowledges that, in connection with Owner's management and operation of the Facility, Owner utilizes the services of certain third-party independent contractors ("**Third-Party Contractors**"). Licensee hereby agrees that Owner shall not be responsible in any way for the acts and/or omissions of any one or all of the Third-Party Contractors, without limitation on all available remedies which Licensee may assert against Third Party Contractors.

2. Purpose.

(a) The Facility is to be used solely for the purpose of the hosting the Norfolk Admirals 2023 ECHL All-Star game, and Licensee shall not use the Facility or permit the Facility to be used by any of its officers, directors, agents, employees, Licensees, or invitees, for any unlawful or immoral purpose or in any manner so as to injure persons or property in, on, or near the Facility.

(b) Licensee shall be liable for any and all losses, liabilities, claims, damages, and expenses (including reasonable costs of investigation and attorneys' fees) (collectively, the "**Losses**") occurring at the Facility (whether within or without an Authorized Area) caused to Owner and/or persons and/or property in, on, or near the Facility before, during, or after an Event, by (i) Licensee's failure to comply with any and all federal, state, foreign, local, and municipal regulations, ordinances, statutes, rules, laws, constitutional provisions, and common laws (collectively, the "**Laws**") applicable to Licensee's performance of this Agreement and/or activities at the Facility, (ii) any unlawful acts on the part of Licensee or its officers, directors, agents, employees, subcontractors, Licensees, or invitees, (iii) the negligent acts, errors and/or omissions or the willful misconduct of Licensee or its officers, directors, agents, employees, subcontractors, Licensees, or invitees, (iv) the material breach or default by Licensee or its officers, directors, agents, or employees of any provisions of this Agreement, including, without limitation, the provisions of Section 14(l) hereof (relating to intellectual property matters), Section 15 hereof (relating to the Civil Rights Act), and Section 16 hereof (relating to the Americans with Disabilities Act), and (v) any and all rigging from or to the physical structure of the Facility or any fixture thereto, set-up, alterations, and/or improvements at or to the Facility necessitated by and/or performed with respect to the Event unless claims arise solely from the willful misconduct of Owner, its agents, employees or representatives.

Event: ECHL All-Star Game

(c) Licensee shall conduct business in the Facility in a dignified and orderly manner with full regard for public safety and in conformity with Owner's General Rules and Regulations, including fire and safety rules as required by Owner and/or local fire regulations, as such may exist from time to time. Without limiting the foregoing, Licensee shall obtain prior written approval from Owner's General Manager at the Facility for any pyrotechnic displays which Licensee anticipates may be performed at the Facility during the term of this Agreement. Licensee agrees that it will not allow any officer, agent, employee, Licensee or invitee at, in or about the Facility who shall, upon reasonable grounds, be objected to by Owner and such person's right to use the Facility may be revoked immediately by Owner.

3. **Condition of Facility.**

(a) Owner shall have the continuing obligation and responsibility to maintain and keep the Facility in good order and repair, normal wear and tear excepted; provided, however, that (i) the failure by Owner to accomplish the foregoing, said failure resulting from circumstances beyond the control of Owner shall not be considered a breach of this Agreement by Owner, and (ii) any damages to the Facility and its appurtenances caused by Licensee or its officers, directors, agents, employees, subcontractors, Licensees, or invitees shall be paid for by Licensee at the actual or estimated cost of repair, as elected by Owner.

(b) Licensee shall not make any alterations or improvements to the Facility without the prior written consent of Owner. Any alterations or improvements of whatever nature made or placed by Licensee to or on the Facility, except movable trade fixtures, shall, at the option of Owner, (i) be removed by Licensee, at Licensee's expense, immediately upon the conclusion of the Event, or (ii) become the property of Owner. Owner may, at its election, accept delivery of property addressed to Licensee only as a service to Licensee, and Licensee will indemnify, defend, and hold harmless Owner for any loss or damage to such property in the receipt, handling, care, and custody of such property at any time. Owner assumes no responsibility whatsoever for any property placed in the Facility. Notwithstanding anything to the contrary set forth herein, Licensee shall be solely responsible and liable for any and all Losses arising out of any and all rigging from or to the physical structure of the Facility or any fixture thereto, set-up, alterations, and/or improvements at or to the Facility necessitated by and/or performed with respect to the Event.

4. **Term of Use.** The license granted in Section 1 above will be effective as of the dates and times set forth on Exhibit A and will continue in effect, unless earlier terminated as set forth in Section 12, until the date and time of termination set forth on Exhibit A.

5. **License Fee, Broadcast Fee, and Reimbursable Service Expenses.** In consideration of the grant of the license in Section 1 above, Licensee shall pay to Owner a license fee, merchandising fee, and shall reimburse Owner for certain service expenditures, all as calculated in accordance with the provisions set forth below and in accordance with generally accepted accounting principles, consistently applied:

(a) **License Fee.** Licensee shall pay a license fee ("License Fee") equal to **\$0.00**

(b) **Additional Fees, include but are not limited to: box office, clean-up, house sound and lights, internet, phone lines, facility manager, receptionist, police (including traffic officers), medics, FOH staff-ticket takers, bag checkers, ushers, door attendants, elevator operators, standard security, stagehands, production rentals, ASCAP/BMI/SESAC, catering, runners, van rentals, ice maintenance staff, dressing room furniture rentals if requested, backline, spotlights, generators, advertising, marketing, insurance or extraordinary staffing, including security.**

(c) **Broadcast Fee.** Licensee shall retain all television, film, radio and/or recording rights to any Events which take place in or at the Facility pursuant to this Agreement.

(d) **Reimbursable Service Expenses.**

(i) Owner shall provide, as may be required for each Event, the following services (collectively, the "Services"), the expenditures for which are reimbursable, by Licensee to Owner ("Reimbursable Service Expenses"). Such Services include, but are not limited to, the services noted in Paragraph 5(a) above, that the License Fee does not include, as well as food and beverage services; scoreboard operations; audio services; any special facilities, equipment and materials, water hook ups, building conversion, banner rigging, forklifts, A/V Equipment (mics, screens), additional promoter expenses, or extra services furnished by Owner at the request of Licensee.

(ii) Owner shall determine the level of staffing for such Services at each Event after consultation with, and input from, Licensee with the understanding that Owner requires a minimum level of staffing for all events. Licensee acknowledges and understands that many of the Services are contracted services, the costs of which are subject to change. Licensee shall reimburse Owner for actual costs incurred by Owner in connection with the Services as provided in Section 6 below.

Event: ECHL All-Star Game

6. Payment Terms.

(a) License Fee and Merchandising Fee. The License Fee and Merchandising Fee set forth in Sections 5(a) and (b) of this Agreement shall be paid by Licensee as provided in Exhibit B attached hereto.

(b) Reimbursable Service Expenses. On or about ten (10) days prior to the first Event, Owner shall deliver to Licensee an expense report estimate ("**Event Estimate**"), setting forth Owner's estimate of all expenses which Owner will incur in connection with the services. Should Owner determine that the net revenue from advance ticket sales is less than the Event Estimate expenses, Owner will advise the Licensee in writing of the amount of additional funds which the Licensee must then pay to Owner to cover the Event Estimate expenses. Such payment by the Licensee must be received by the Owner by the date that Owner notes in the letter for the receipt of the funds. Owner reserves the right to terminate the event if funds requested are not received by the date specified by Owner in writing. After the conclusion of an Event, Owner shall deliver to Licensee an expense report setting forth the expenses actually incurred by Owner for the Services ("**Actual Expense Report**"). Licensee shall promptly pay to Owner the amount reflected in Actual Expense Report (as noted in Exhibit B), but under no circumstances later than fourteen (14) days after the event. Notwithstanding anything to the contrary set forth in this Agreement, Owner's failure to deliver the Event Estimate shall not excuse Licensee's obligation to pay any amounts due hereunder. Any proceeds due Licensee shall be paid by Owner pursuant to the Box Office Settlement Statement via wire transfer or check on the first business day following the Event.

(c) Late Charges. If Licensee fails to pay any amounts when due under this Agreement, Licensee shall pay to Owner a late charge of 1.5% per month on the unpaid balance.

(d) Attorneys' Fees. Each Party shall bear its own attorneys' fees and costs incurred in connection with this Agreement. However, if any Party brings an action against any other Party based upon a breach of this Agreement, the prevailing Party shall be entitled to all reasonable expenses incurred in connection therewith, including reasonable attorneys' fees and costs.

(e) Non-Refundable Security for Payment / Deposit. In order to ensure the payment to Owner of the License Fee, Merchandising Fee, the Reimbursable Service Expenses and any other amounts as may accrue from time to time under this Agreement, Licensee shall deliver into the custody of Owner, upon signing of this Facilities Use Agreement, and prior to the event going on sale, a certified check payable to Owner, performance bond, letter of credit, ticket sales escrow, or other security acceptable to Owner, in the **non-refundable** amount of **\$0.00**, as noted on Exhibit B attached. Should Licensee fail to pay the License Fee, Merchandising Fee, the Reimbursable Service Expenses, or any other amounts due to Owner in accordance with the terms of this Agreement, then Owner may apply the proceeds of said check, performance bond, letter of credit, ticket sales escrow, or other security in settlement thereof. The remedy provided under this Section 6 (e) shall be non-exclusive and shall be in addition to any other remedy available to Owner in this Agreement or in law or equity. The Security for Payment/Deposit may be transferred to another booking or rescheduled date if approved in writing by the Director or his/her designee, but the Security for Payment/Deposit is non-refundable.

(f) Box Office Receipts. All box office revenues and receipts relating to the Event shall be held by Owner in trust for the benefit of Licensee pending the cash settlement described in this Agreement. Upon the completion of the cash settlement, all remaining revenues and receipts due to Licensee shall be paid to Licensee consistent with the terms of this Agreement and released from trust only upon such payment. Owner agrees that should it become a debtor or debtor-in-possession in any bankruptcy proceeding, then the revenues and receipts due Licensee shall not become property of the estate, and further agrees that Owner shall hold only legal title to such funds and no equitable interest therein, until the revenues and receipts due to Licensee are actually paid to Licensee by Owner.

In the event that Licensee shall declare in writing to Owner its insecurity with regard to receiving payment in accordance with the settlement provisions of the Agreement, and shall fail to receive, within five days of such written declaration of insecurity, sent in accordance with this Agreement, adequate assurance of future performance by Owner, then Licensee shall be permitted to terminate the Agreement immediately upon written notice to Owner.

7. Revenues and Costs. Owner shall retain one hundred percent (100%) of all revenues generated in connection with parking lot fees, and the sale of food and beverages at the Facility. In addition to payment of the Reimbursable Service Expenses above, Licensee shall bear all expenses incurred by Licensee in connection with the holding of an Event at the Facility, including, but not limited to, all costs arising from the use of patented, trademarked, or copyrighted materials, equipment, devices, processes, or dramatic rights used on or incorporated in the conduct of an Event.

8. Records, Reports, and Audits. [APPLICABLE IF LICENSEE IS COLLECTING REVENUES]

(a) Records. Licensee shall maintain accurate books and records with respect to its activities at the Facility, including, but not limited to, the costs and revenues of each Event. Licensee shall keep and preserve such books and records at all times during the term of this Agreement and for at least three (3) years following the expiration or termination hereof.

(b) Reports. Licensee shall deliver to Owner no later than ten (10) days after the date of a revenue-generating Event for the account of Owner a detailed written notice of the amounts claimed to be due to Owner pursuant to Sections 5(a), 5(b), 5(c) and 6(a) of this Agreement (each a "Statement"). Each Statement shall detail (i) with respect to ticket sales, all tickets sold and all amounts collected by Licensee, with all deductions (sales tax, etc.) therefrom, (ii) with respect to novelty and merchandising revenue, all items sold and all amounts collected by Licensee, with all deductions (sales tax, etc.) therefrom, and (iii) with respect to broadcast revenues, a detail of all broadcast revenues collected by Licensee, with all deductions (sales tax, etc.) therefrom. Statements shall be deemed incontestable unless objected to by Owner, in writing, specifying the nature of and reasons for such objection, within twelve (12) months after receipt by Owner.

(c) Audits. Licensee shall give Owner and its representatives, access to the books and records Licensee maintains pursuant to Section 8(a) above at any time when so requested by Owner. Licensee shall also provide a copy of any such book or record upon request. To the extent that any Statement prepared by Licensee has become contestable, Owner shall have the right to cause nationally recognized independent auditors to audit all of the books and records of Licensee relating to such Statement. If any such audit demonstrates that the revenues or expenses reflected in any Statement are understated (in the case of revenues) or overstated (in the case of expenses), in either case by more than five percent (5%), Licensee shall pay to Owner the reasonable cost of such audit. In any event, Licensee shall promptly pay to Owner the portion of any License Fee, Merchandising Fee, or Broadcast Fee due to Owner as a consequence of such overstatement or understatement.

9. Taxes. Owner shall not be liable for the payment of taxes, late charges, or penalties of any nature relating to any Event or any revenue received by, or payments made to, Licensee in respect of any Event, except as otherwise provided by law. Licensee shall pay and discharge as they become due, promptly and before delinquency, all taxes (including admission charge as defined in this Section 9), assessments, rates, damages, license fees, municipal liens, levies, excises, or imposts, whether general or special, or ordinary or extraordinary, of every name, nature, and kind whatsoever, including all governmental charges of whatsoever name, nature, or kind, which may be levied, assessed, charged, or imposed, or which may become a lien or charge against this Agreement or any other improvements now or hereafter owned by Licensee.

The term "admission charge" shall mean the charge made for admission to any amusement or entertainment, exclusive of any federal tax thereon, including a charge made for season tickets, whether obtained by contributions or subscription, charges made to participants in order to participate in sporting events, a cover charge or a charge made for the use of seats or tables, reserved or otherwise, and similar accommodations in the city. When a person is admitted free and a service charge is made, the service charge shall be considered as a charge for admission.

10. Indemnification and Insurance. Licensee hereby waives any claim against and promises to defend, indemnify, save and hold harmless, the owner (City of Norfolk), its officers, employees, agents and representatives from and against any liability or loss, of any nature whatsoever, arising out of or relating to Licensee's occupancy of the facilities or operation of the improvements thereon, or any act or omission of Licensee in connection with the use of the facilities under this Agreement; including without limiting the generality of any of the foregoing, any act or omission of Licensee, its agents, servants, employees, patrons or invitees. At all times during its use of the Facility, Licensee, at its sole cost and expense, shall purchase and maintain the following: 1) Commercial General Liability insurance, using form ISO CG 00 01 or equivalent, covering the activity contemplated by this Agreement, including coverage for public liability, bodily injury and property damage; and, as may be applicable, an endorsement or standalone policy for abuse and molestation coverage of not less than One Million Dollars (\$1,000,000.00), with combined single coverage limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) in the aggregate; 2) Workers' Compensation insurance, where required by Commonwealth law, and 3) Such insurance as required by federal, Commonwealth or local laws, codes, or regulations. Licensee shall furnish Owner written evidence of such insurance by delivering a policy endorsement or a certificate of insurance to Owner, not less than thirty (30) days prior to the event, which policy or certificate shall clearly state and show that said liability and property damage insurance is primary over any other existing coverage, and that the City of Norfolk, its officers, employees, and representatives are named Additional Insured under said liability and property damage insurance. All insurance policies required to be purchased under this Agreement shall be issued by insurance companies with an A.M. Best rating of "A" or better, and shall be issued by companies that are qualified to do business in the Commonwealth of Virginia. Such policy(ies) shall contain a rider requiring thirty (30) days written notice to Owner prior to cancellation or material alteration of the policy for any reason whatsoever. In the event written evidence of said insurance is not furnished pursuant to the requirements set forth above, this shall operate as cancellation by Licensee, and shall be treated as a cancellation of the event. To the extent allowed by applicable law without waiving its sovereign immunity, Owner agrees to indemnify, defend, and save harmless PCE 811, LLC for liability or loss of any nature whatsoever arising out of the Owner's gross negligence or intentional misconduct in carrying out its obligations under this Agreement.

Event: ECHL All-Star Game

The above notwithstanding, if Licensee is a governmental unit, or agency thereof, Licensee shall indemnify and hold harmless the Owner to the extent permitted by prevailing law; further, if the Licensee is a self-insured governmental unit, or agency thereof, Licensee shall provide the Owner evidence of such self-insurance in the form of a current copy of Licensee's self-insurance certificate, or other such similar evidence, not less than thirty (30) days prior to the event. This representation and warranty shall survive the termination of this Agreement.

11. **Loss/Damage/Acts of God.** That the Owner shall not be liable or responsible for any loss or damage to machinery, equipment, paraphernalia, costumes, clothing, scenery, exhibit materials, musical instruments or cases, or any other property of the Licensee caused by theft, fire, riot, war, civil disturbance, weather and conditions arising therefrom, existence of any emergency, acts of God, or any other cause of whatever nature or kind. If, in the judgment of the Owner, any such cause shall render the fulfillment of this entire Agreement impossible or impractical, then the Agreement shall be terminated and the Licensee shall be liable to pay the license fee due only to the time of termination and the Licensee expressly waives and releases any and all claims for damages, compensation or profit on account of such termination. The Owner shall give notice of such termination to the Licensee, or his agent, in a manner which the Owner deems appropriate under the particular circumstances, and such notice shall be sufficient to effect the termination of this Agreement.

12. **Default, Termination and Other Remedies.**

(a) **Default.** Licensee shall be in default under this Agreement if any of the following occur: (i) Licensee fails (A) to pay any amount due hereunder (including, without limitation, the License Fee or the Reimbursable Service Expenses) when the same are required to be paid hereunder or (B) to provide the security required under Section 6(e) hereof by the date when due, (ii) Licensee or any of its officers, directors, employees or agents fails to perform or fulfill any other material term, covenant, or condition contained in this Agreement and Licensee fails to commence a cure thereof within five (5) business days after Licensee has been served with written notice of such default, or (iii) Licensee makes a general assignment for the benefit of creditors. Owner shall be in default under this Agreement if Owner fails to perform or fulfill any material term, covenant, or condition contained in this Agreement and Owner fails to commence a cure thereof within five (5) business days after Owner has been served with written notice of such default. Nothing herein shall be construed as excusing either party from diligently commencing and pursuing a cure within a lesser time if reasonably possible. Notwithstanding clause (ii) above, if the breach by Licensee or any of its officers, directors, employees, or agents of such other term, covenant, or condition is such that it threatens the health, welfare, or safety of any person or property, then Owner may, in its discretion, require that such breach be cured in less than five (5) business days or immediately.

(b) **Termination.** Upon a default pursuant to Section 12(a) hereof, the non-breaching party may, at its option, upon written notice or demand upon the other party, cancel and terminate this Agreement and the obligations of the parties with respect thereto. In addition to the foregoing, if Licensee fails to comply with any of the provisions of this Agreement, Owner may, in its discretion, delay and/or withhold payment and/or settlement of all accounts and funds related to monies collected or received by Owner for the benefit of Licensee hereunder until the completion of an investigation relating to such violation.

(c) **Termination by Reason of Labor Dispute.** In addition to the remedies provided elsewhere in this Agreement, Owner shall have the right to terminate this Agreement in the event that a dispute occurs between Licensee and its employees or between Licensee and any union or group of employees by reason of the union affiliation or lack of union affiliation of persons employed by Licensee or any one with whom Licensee contracts.

(c) **Injunctive Relief.** In addition to any other remedy available at law, equity, or otherwise, Owner shall have the right to seek to enjoin any breach or threatened breach and/or obtain specific performance of this Agreement by Licensee upon meeting its burden of proof of such breach or threatened breach as required by applicable statute or rule of law.

(d) **Remedies.** The parties hereto shall be entitled to any remedy available under this Agreement and under any applicable law.

(f) **Severe Weather.** Owner and Licensee will work to reach a mutually agreed upon decision regarding cases of severe weather. However, Owner has the right to cancel an Event due to severe weather when it is deemed a threat to the venue, staff, and patrons or when a state of emergency is declared. Automatic closure will be enforced if a state of emergency is declared for City of Norfolk and/or surrounding cities. Owner and Licensee will work to find a mutually agreeable date(s) for the rescheduling of the Event in the instance of cancellation due to weather. Any deposits already paid will be applied to the agreed upon rescheduled date. Should an alternate date not be agreed upon, Owner will refund Licensee's full deposit amount made to Owner, less any marketing fees or documented expenses that have already been incurred by Owner on behalf of the Licensee. Any other expenses incurred by the Licensee not related to Owner fees will not be refunded by Owner to Licensee.

Event: ECHL All-Star Game

13. **Representations and Warranties.** Each party hereby represents and warrants to the other party, and agrees as follows:

- (a) It has the full power and authority to enter into this Agreement and perform each of its obligations hereunder;
- (b) It is legally authorized and has obtained all necessary regulatory approvals for the execution, delivery, and performance of this Agreement; and
- (c) No litigation or pending or threatened claims of litigation exists which do or might adversely affect its ability to fully perform its obligations hereunder or the rights granted by it to the other party under this Agreement.

14. **Covenants.** Licensee hereby covenants as follows:

- (a) Licensee shall not occupy or use the Facility except as provided in this Agreement.
- (b) Licensee shall comply with all legal requirements which arise in respect of the Facility and the use and occupation thereof.
- (c) Licensee shall not cause or permit any Hazardous Material to be used, stored, or generated on, or transported to and from the Facility. "**Hazardous Material**" shall mean, without limitation, those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," or "solid waste" in any applicable state or federal environmental law.
- (d) Licensee shall not advertise, paint, post, or exhibit, nor allow to be advertised, painted, posted, or exhibited, signs, advertisements, show bills, lithographs, posters, or cards of any description inside or outside or on any part of the Facility except upon written permission of Owner.
- (e) Subject to the provisions of Section 5(a) above, Licensee shall not broadcast by television or radio any Event scheduled to be presented in the Facility under the terms of this Agreement without the prior written approval of Owner. If approval is granted by Owner, then all monies received from such broadcast will be considered as broadcast revenues for the purpose of determining the Broadcast Fee due to Owner, if any.
- (f) Licensee shall not allow outside food or drink into any facility, all food and beverage requirements must be coordinated through the Owner.
- (g) Licensee shall not operate any equipment or materials belonging to Owner without the prior written approval of Owner.
- (h) Licensee, its officers, directors, employees, agents, members, or other representatives shall not "scalp" tickets for an Event, to the extent applicable. Licensee and its representatives shall provide assistance to Owner in its efforts to control and prevent such ticket "scalping."
- (i) No portion of any passageway or exit shall be blocked or obstructed in any manner whatsoever, and no exit door or any exit shall be locked, blocked, or bolted while the Facility is in use. Moreover, all designated exit ways shall be maintained in such manner as to be visible at all times.
- (j) Subject to the provisions of Section 5(a) above, if the License Fee includes a percentage of revenue generated from an Event, then no collections, whether for charity or otherwise, shall be made, attempted, or announced at the Facility, without first having made a written request and received the prior written consent of Owner. In such event all such monies received from donations or collections in lieu of a fixed admission ticket price will be considered as ticket revenues for the purpose of determining the License Fee due to Owner. If Licensee requires a fee to enter event, event revenue will be subject to admissions tax. Sponsorship of the tournament shall not be considered revenue for purposes of this Section 14(j).
- (k) Licensee shall not encumber, hypothecate, or otherwise use as security its interests in this Agreement for any purpose whatsoever without the express written consent of Owner.
- (l) With respect to any Event at the Facility, Licensee shall comply fully with any and all local, state, and federal laws, regulations, rules, constitutional provisions, common laws, and rights of others applicable to the reproduction or performance of proprietary or copyrighted materials and works of third parties (the "**Works**"), and to the protection of the intellectual property rights associated with such Works. The fees payable by Licensee under this Agreement do not include royalty, copyright or other payments which may be payable on behalf of third-party owners of such Works, and Licensee agrees hereby to make any and

Event: ECHL All-Star Game

such payments to third parties and/or clearinghouse agencies as may be necessary to lawfully perform, publish or reproduce any such Works. Licensee specifically agrees, undertakes, and assumes the responsibility to make any and all reports to such agencies and/or parties, including specifically by way of example only (and not by way of limitation) ASCAP, BMI, SAG, SESAC and other similar agencies. Licensee agrees hereby to produce evidence of such reports and payments to Owner, including evidence of compliance with the requirements of this paragraph to be provided to Owner in advance of any such Event. Provision of such evidence is a material condition of this Agreement. Licensee agrees to indemnify, defend, protect and hold harmless Owner and all other Indemnities (as defined in this Agreement) of and from all and all manner of Losses arising in any way from the use by Licensee of proprietary intellectual property of third parties (whether such claims are actual or threatened) under the copyright or other laws of the United States. The foregoing defense and indemnity shall apply regardless of the means of publication or performance by Licensee, and shall include specifically and without limitation the use of recordings, audio broadcasts, video broadcasts, Works on other magnetic media, sounds or images transmitted via the worldwide web, chat rooms, webcast, or on-line service providers, satellite or cable, and all other publication or performance means whatsoever, whether now known or developed after the date of this Agreement.

(m) Licensee shall not engage in the sale and/or distribution of food and/or beverages at the Facility.

(n) Licensee, or their designee deemed capable of making decisions on Licensee's behalf, must be reachable, either on site or by phone, from the time of the arrival through the time of departure.

15. **Civil Rights Act.** During the performance of this Agreement, Licensee shall comply fully with Title VI and Title VII of the Civil Rights Act of 1964, as amended, and all other regulations promulgated thereunder, in addition to all applicable state and local ordinances concerning Civil Rights.

16. **Americans With Disabilities Act.** With respect to any Event at the Facility, Licensee recognizes that it is subject to the provisions of Title II & III of the Americans With Disabilities Act, as amended, and all similar applicable state and local laws (collectively, the "ADA"). Licensee represents that it has viewed or otherwise apprised itself of the access into the Facility, together with the common areas inside, and accepts such access, common areas, and other conditions of the Facility as adequate for Licensee's responsibilities under the ADA. Licensee shall be responsible for ensuring that the Facility complies and continues to comply in all respects with the ADA, including accessibility, usability, and configuration insofar as Licensee modifies, rearranges or sets up in the Facility in order to accommodate Licensee's usage. Licensee shall be responsible for any violations of the ADA, including, without limitation, those that arise from Licensee's reconfiguration of the seating areas or modification of other portions of the Facility in order to accommodate Licensee's usage. Licensee shall be responsible for providing auxiliary aids and services that are ancillary to its usage and for ensuring that the policies, practices, and procedures it applies in connection with an Event are in compliance with the ADA. Owner represents the Facility complies with all ADA laws and regulations. For Event Advertising to adhere to ADA requirements the following statement should appear on all print advertising: **Accessible seating is available for patrons with a disability. Seating is available through SCOPE Box Office or Ticketmaster.**

17. **Use of Information.** Licensee hereby acknowledges and agrees that Owner shall have the right to disclose to recognized industry sources that track event activity information relating to any Event, including, without limitation, the identity of performers or other participants of the Event, attendance figures, and gross ticket revenue for the Event.

18. **Construction of this Agreement.**

(a) **Choice of Law.** This Agreement will be governed solely by the internal laws of the Commonwealth of Virginia, and the City of Norfolk, without regard to principles of conflicts of law.

(b) **Paragraph Headings.** The paragraph headings are inserted herein only as a matter of convenience and for reference and in no way are intended to be a part of this Agreement or to define, limit, or describe the scope or intent of this Agreement or the particular paragraphs hereof to which they refer.

(c) **Entire Agreement; Amendments.** This Agreement (including all Exhibits and other documents and matters annexed hereto or made a part hereof by reference) contains all of the representations, warranties, covenants, agreements, terms, provisions, and conditions relating to the rights and obligations of Owner and Licensee with respect to the Facility. No alterations, amendments, or modifications hereof shall be valid unless executed by an instrument in writing by the parties hereto. **WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, IT IS EXPRESSLY UNDERSTOOD AND AGREED BY THE PARTIES HERETO THAT NO OFFICER, DIRECTOR, EMPLOYEE, AGENT, REPRESENTATIVE, OR SALES PERSON OF EITHER PARTY HERETO, OR OF THE OWNER OR ANY THIRD PARTY HAS THE AUTHORITY TO MAKE, HAS MADE, OR WILL BE DEEMED TO HAVE MADE, ANY REPRESENTATION, WARRANTY, COVENANT, AGREEMENT, GUARANTEE, OR PROMISE WITH RESPECT TO THE FINANCIAL SUCCESS OR PERFORMANCE, AND/OR OTHER SUCCESS, OF THE EVENT. THE LICENSEE HEREBY ACKNOWLEDGES**

Event: ECHL All-Star Game

AND AGREES THAT ANY ASSESSMENT OF THE FINANCIAL SUCCESS OR PERFORMANCE, AND/OR OTHER SUCCESS, OF THE EVENT IS SOLELY THAT OF THE LICENSEE'S OWN DETERMINATION AND JUDGMENT.

(d) Severability. All provisions of this Agreement shall be applicable only to the extent they do not violate applicable law, and are intended to be limited to the extent necessary so that they will not render this Agreement invalid, illegal, or unenforceable under any applicable law. If any provision of this Agreement shall be held invalid, illegal or unenforceable, then the validity, legality or enforceability of other provisions in this Agreement shall not be affected thereby but shall remain in full force and effect.

(e) Time. Time is of the essence hereof, and every term, covenant, and condition shall be deemed to be of the essence hereof.

(f) Successors. This Agreement shall be binding upon, and shall inure to, the benefit of the successors and assigns of Owner, and to such successors and assigns of Licensee as are permitted to succeed to the Licensee's right upon and subject to the terms hereof.

(g) Independent Contractor; No Partnership. Owner and Licensee shall each be and remain an independent contractor with respect to all rights and obligations arising under this Agreement. Nothing herein contained shall make, or be construed to make, Owner or Licensee a partner of one another, nor shall this Agreement be construed to create a partnership or joint venture between and of the parties hereto or referred to herein.

(h) Singular and Plural. Whenever the context shall so require, the singular shall include the plural, and the plural shall include the singular.

(i) Authority to Execute. The terms of this Agreement are contractual and not mere recital, and the individuals executing this Agreement hereby represent and warrant that they have full and complete authority to covenant and agree as herein provided and to execute this Agreement on behalf of the parties hereto.

(j) Counter parts and facsimile signatures. This Agreement may be signed in counterparts. The parties hereto agree that facsimile or email signatures shall have the full force and effect of original signatures. Further, the parties agree hereby that a copy, fax, or facsimile of this Agreement shall be accepted for all purposes affecting the rights and obligations of the parties thereunder.

(k) Construed. Neither this Use Agreement nor any provision in it shall be (a) deemed to have been proposed or drafted by any party, or (b) construed against any party. This Agreement shall be construed as a whole according to its plain meaning.

19. Miscellaneous.

(a) Waiver. The failure of any party to enforce any of the provisions of this Agreement, or any rights with respect hereto, or the failure to exercise any election provided for herein, will in no way be considered a waiver of such provisions, rights, or elections, or in any way affect the validity of this Agreement. The failure of any party to enforce any of such provisions, rights, or elections will not prejudice such party from later enforcing or exercising the same or any other provisions, rights, or elections which it may have under this Agreement.

(b) Assignment. Neither this Agreement nor any of the rights or obligations hereunder may be assigned or transferred in any manner whatsoever by Licensee without the prior written consent of Owner.

(c) Notices. Any notice, consent, or other communication given pursuant to this Agreement shall be in writing and shall be effective either (i) when delivered personally to the party for whom intended, (ii) upon delivery by an overnight courier services that is generally recognized as reliable, and the written records maintained by the courier shall be prima facie evidence of delivery, (iii) on delivery (or attempted delivery) by certified or registered mail, return receipt requested, postage prepaid, as of the date shown by the return receipt, or (iv) via facsimile; in any case addressed to such party as set forth below or as a party may designate by written notice given to the other party in accordance herewith.

If to Owner: SCOPE
PO Box 1808
Norfolk, VA 23501
Attention: Contract Administrator

If to Licensee: At address listed in
this Agreement

Event: ECHL All-Star Game

(d) Non-Exclusive Use. Owner shall have the right, in its sole discretion, to use or permit the use of any portion of the Facility other than the Authorized Areas to any person, firm or other entity regardless of the nature of the use of such other space, provided such use does not unreasonably interfere with the Event at the Facility.

(e) Force Majeure. If the Facility is damaged from any cause whatsoever, or if any other casualty or unforeseeable cause beyond the control of Owner or Licensee, including, without limitation, acts of God, fires, floods, pandemics, epidemics, disease, quarantine restrictions, terrorist attacks, strikes, labor disputes, failure of public utilities, or unusually severe weather, prevents occupancy and/or limits occupancy use, or either, as granted in this Agreement, Owner and Licensee are hereby released from any damage so caused thereby, or any obligations hereunder prevented by such occurrence except any adjustments provided for under the provisions of Exhibit A with respect to the Guaranteed Tournament Fee and the Additional Tournament Fee shall not be affected by a force majeure event.

(f) Acts and Omissions of Third Parties. Owner shall not be liable in any way for any acts and/or omissions of any third party to this Agreement, including, without limitation, any ticket agency used by Owner in connection with the sale of tickets for any Event.

(g) Counterpart Signature Pages. This Agreement may be executed in counterparts.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the day and year first written above.

LICENSEE:

PCE 811, LLC

By: _____
Name: _____
Title: _____

OWNER:

THE CITY OF NORFOLK

By: _____
Dr. Larry H. Filer II
City Manager

Approved as to Form and Correctness:

Deputy City Attorney

ATTEST:

City Clerk

Approved as to Contents:

John Rhamstine, Director
Cultural Facilities, Arts & Entertainment

Certification of Funding

I hereby certify that the money for this Agreement is in the City Treasury to the credit of the fund from which it is to be drawn and not appropriated for any other purpose.

ACCOUNT NO.: _____
AMOUNT: \$ _____
CONTRACT NO.: _____
VENDOR NO.: _____
BUSINESS LICENSE NO.: _____

Director of Finance

Date

EXHIBIT A
Norfolk Admirals 2023 East Coast
Hockey League
All-Star Game
Contract Terms: January 12-16, 2023

1. **Expenses:** Except as otherwise expressly set forth in this Agreement, PCE 811, LLC agrees to pay up to \$50,000 for expenses of Owner, and Owner shall be responsible for any expenses over the \$50,000 cap (the "Base Expense Cap"). In the event PCE 811, LLC chooses to use the Admirals' suite seating (subject to approval by the Admirals), the expense and teardown of such use will be paid to Owner by PCE 811, LLC in addition to the Base Expense Cap, and the total seating capacity for the bonus Fee structure will be adjusted. The Base Expense Cap does not include the box office fees set forth in Exhibit B.
2. **Guaranteed Fee:** As consideration for PCE 811, LLC bringing their All-Star Game to Norfolk and based upon the current All-Star weekend Usage Days, subject, in part, to appropriation by the City Council of the City of Norfolk, the City shall pay to PCE 811, LLC a payment of Two Hundred Thousand and 00/100 Dollars (\$200,000.00) (the "Guaranteed All Star Game Fee") to PCE 811, LLC. One-half (1/2) of the Guaranteed All Star Game Fee has been previously appropriated and authorized for expenditure and shall be payable in advance to PCE 811, LLC by February 1st, 2022. The remaining balance of the Guaranteed Game Fee is subject to appropriation by the City Council of the City of Norfolk and shall be payable on July 1, 2022.
3. **Additional Game Fee.** During the term of this Agreement, in the event total ticket sales for the game are equal to or greater than 50% of the total tickets available, subject to appropriation by the City Council of the City of Norfolk, Owner shall pay to PCE 811, LLC an additional fee as laid out below (the "Additional Game Fee"); provided, however, the Additional Game Fee shall only be payable in the event revenue from total ticket sales for the tournament divided by total in-house attendance at the tournament is equal to or greater than the average available ticket price for the tournament. PCE 811, LLC shall submit a request for such Additional Game Fee with documentation of total ticket revenue and total in-house attendance to the at the time of settlement after the game has ended. Total amount of Additional Game Fee will not exceed One Hundred Thousand and 00/100 Dollars.

Percent of Total Ticket Sales	Additional Tournament Fee Paid
50%	\$25,000.00
75%	\$50,000.00
85%	\$75,000.00
100% (based on 7,500 tickets sold)	\$100,000.00

Event: ECHL All-Star Game

4. **Advertising and Sponsorship:** PCE 811, LLC will retain all rights to advertising and sponsorship during the Tournament including temporary signage, radio and television rights and event sponsorships. The City shall have the rights to one video and two PA spots per game for the promotion of other events taking place in the City during the Tournament. The City shall have the right to approve locations for signage and other media locations at the Venue, which shall not be unreasonably withheld.
5. **Ticket Revenues:** The proceeds from all ticket sales will be retained by PCE 811, LLC, less any applicable taxes, rebates or Facility Fees.
6. **Event Settlement:** Following the All Star Game, the Venue will generate a “Settlement Sheet” netting expenses and revenues attributable to PCE 811, LLC and remitting payment to PCE 811, LLC for any amount which is in excess of the Guaranteed Game Fee (assuming a payment is due) via either check or wire transfer. Settlement will take place within thirty (30) days from the end of the 2023 All Star Game.
7. **Merchandise Sales:** PCE 811, LLC will retain all sales from PCE 811, LLC-related merchandise and will provide its own staff for such sales. Should PCE 811, LLC desire that the Owner sell merchandise for the All-Star Game, the venue shall retain 25% of all such sales after the deduction of appropriate expenses in accordance with Section 5(b) of the Agreement.
8. **Soft Drinks:** Pepsi is the exclusive provider of soft drinks, including bottled water, for the Norfolk Scope Arena and no other soft drink products are permitted to be sold or consumed in and around the venue. Alternative beverages may be used by PCE 811, LLC only in the locker rooms, team benches, and VIP hospitality areas.
9. **Food and Beverage Sales:** The City shall retain all revenue from concession and catering sales during the All-Star Game. The exclusive provider of food and beverages for SCOPE is Spectra Food Services.
10. **Sale of Alcohol:** The Venue will be permitted to sell alcoholic beverages during the course of the Game. All proceeds from such sales will be retained by the Owner.
11. **Parking:** PCE 811, LLC shall receive 40 parking Passes for its exclusive use to be paid for by the City. Any additional passes needed by PCE 811, LLC shall be negotiated with the Division of Parking at prevailing rates in available garages and spaces. Passes will be good only for such designated lots and garages surrounding the venue. The City shall retain all parking revenues generated by the All-Star Game.
12. **Box Office Services:** The City will provide box office services as outlined in Attachment B or the Box Office Addendum.
13. **Advertising and Sponsorship:** PCE 811, LLC promotion of other events taking place in the City during the Game. The City shall have the right to approve locations for signage and other media locations at the Venue, which shall not be unreasonably withheld. Any

Event: ECHL All-Star Game

costs incurred by PCE 811, LLC or the Owner in connection with PCE 811, LLC's signage and sponsorships shall be paid by PCE 811, LLC, in addition to the Base Expense Cap.

14. **Game Operations Plan:** PCE 811, LLC and the City will work jointly beginning six months prior to the Game to commit to writing detailed plans of how the venues will be used during the Game. It is suggested that monthly meetings be held to jointly plan for the Game. If no conflicting events are scheduled thirty (30) days prior to the Event, the Scope Arena shall be made available to PCE 811, LLC the Friday prior to the Game for the purposes of hanging decorative wrapping. If there are conflicting events, the City shall work with PCE 811, LLC to get the contractors responsible for wrapping the arena into the venue as early as possible.
15. **Off-Site Practice Facilities:** PCE 811, LLC will be responsible for locating and contracting with any outside practice facilities that may be needed for the All-Star Game. Scope staff will work with PCE 811, LLC to schedule appropriate practice times at the Scope Arena during the week of the game.
16. **PCE 811, LLC Office Space:** PCE 811, LLC game officials have had a tour of the facility and are aware of what spaces may or may not be appropriate for PCE 811, LLC's offices. Any office equipment needed by PCE 811, LLC will be supplied at PCE 811, LLC's expense.
17. **Media Relations:** The City shall assist PCE 811, LLC with obtaining the following Media Relations amenities during the course of this Agreement. All such amenities shall be billable at settlement if provided by the City. PCE 811, LLC may contract with outside sources to supply any amenities that the City cannot provide, solely at PCE 811, LLC's expense. Such amenities may include the following:
 1. Wireless and hard wired internet connections.
 2. Technical staff on site to assist with same.
 3. Telephone services on rink and back stage.
 4. On rink and press room electrical outlets.
 5. Interview room with electrical outlets and microphone.
 6. Television access in media room with ability to receive live game feeds.
 7. Ability to live stream game broadcasts via internet.
 8. ISDN lines at courtside or appropriate data lines.
18. **Facility Fee:** The City will add a facility fee of \$2.00 per ticket sold for the Norfolk Admirals 2023 ECHL All-Star Game. Such facility fees will be retained solely by the City.
19. **City Ticket:** The Owner is entitled to receive sixty (60) complimentary tournament ticket booklets with seats located in the 100 level. Such complimentary seats shall be counted as "seat sold" in determining any applicable Bonus Game Fee.

Event: ECHL All-Star Game

20. **Authorized Areas of Venue and Dates of Use:**

Authorized Areas	Dates	Purpose	Time Of Use
Scope Arena & Standard Support Spaces	1/12-16/2023	Load-In	TBD
	1/12-16/2023	See Exhibit F	TBD

27. **Event Hours:** All Events must end prior to midnight on the day of the event. Load-out must commence immediately following last event.

Event: ECHL All-Star Game

EXHIBIT B

Box Office Fees: Norfolk Admirals 2023 ECHL All-Star Game

Applicable Box Office Fees:

-3% of Net after Tax Sales (capped at \$25,000) this amount is in addition to the \$50,000 Base Expense Cap.

This covers ticket printing, Ticketmaster set up and support fees.

-\$2.00 per ticket facility fee. This fee is retained solely by the City.

-Credit Card Fees may be paid by PCE 811, LLC or added to the cost of the ticket to the patron. PCE 811, LCC to decide which option it prefers. If paid by PCE 811, LLC, this fee is in addition to the Base Expense Cap.

-10% Admission Tax taken at settlement. (To calculate the City's admission tax rate, take the total cost of a ticket, e.g. \$10.00, divide that gross ticket price by 1.1 then multiply by .1. That gives you a total Admission Tax of \$.91 on a \$10.00 ticket).

-Box Office Labor, i.e. Ticket Sellers and Supervisors are part of staffing bill and such costs are included with the annual \$50,000 Base Expense Cap.

Complimentary Tickets for City of Norfolk

-Licensee shall provide to Owner, Complimentary tickets in the amounts listed below, after tickets are made available for sale to the public:

- 60 complimentary tickets for seats in Level 1 of the Venue
- Up to 1% of single session tickets, complimentary. This equates to approximately 60 tickets.

All tickets will be based on best available seats at the time the Owner's request is made. Licensee will provide these within a reasonable time to Owner, but no later than 24 hours after the request has been made by Owner in writing.

EXHIBIT C**Payment of Deposit, License/Merchandise Fee(s),
Reimbursable Service Expenses and Other Fee(s)**

(a) Non-Refundable Deposit Due Date: The Non-Refundable Deposit shall be credited towards the License Fee and will be paid in accordance with the following schedule:

<u>\$0.00</u>	upon signing this Facilities Use Agreement
_____	months prior to start of the Event
_____	months prior to start of the Event
_____	14 days prior to start of the Event

(b) Reimbursable Service Fee(s). As noted in Section 6(b) above, any Reimbursable Service Fee(s) (set forth in Section 5(d)) shall be due and payable by Licensee to Owner promptly after the conclusion and settlement of the event, but under no circumstances later than fourteen (14) days after the event.

(c) License Fee, Merchandising Fee and Other Fee(s). The remaining balance of the License Fee and any Merchandising Fee (as set forth in Section 5 (a) and (b) above), and any and all other fees, costs or expenses to be paid by Licensee to Owner under the agreement, shall be due and paid by Licensee to Owner immediately following the event.

(d) Additional Request for Funds. Should Owner determine that the net revenue from advance ticket sales is less than the Event Estimate expenses, Owner will advise the Licensee in writing of the amount of additional funds which the Licensee must then pay to Owner to cover the Event Estimate expenses. Such payment by the Licensee must be received by the Owner by the date that Owner notes in the letter for the receipt of the funds. Owner reserves the right to terminate the event if funds requested are not received by the date specified by Owner in writing.

EXHIBIT D**SPECIAL REQUIREMENTS FOR FACILITY USAGE**

- Event parking at the prevailing rate.
- All of Scope, Chrysler Hall, Wells Theatre, Attucks Theatre, Harrison Opera House and Harbor Park are non-smoking facilities.
- Labor and equipment will be billed as an additional expense at prevailing rates.
- No outside food or drink will be allowed into any Norfolk Cultural Facility Without the prior written consent of Owner.
- All food and beverage requirements in Scope or Chrysler Hall must be coordinated through SPECTRA (757) 605-0208.
- The Director of Cultural Facilities, Art & Entertainment or their designee must approve all signage in writing; in addition no signage may be taped to any wall, door or glass surface.
- No adhesive backed items may be distributed or sold prior to or during performance.
- All food and beverage for Wells Theatre, Attucks Theatre, and Harrison Opera House must be coordinated with an approved caterer.
- Minimum staffing levels are in place for all events as determined by Owner and Licensee but in no event shall staffing levels be below the industry standard minimums for safety and security.
- Licensee, or their designee deemed capable of making decisions on Licensee's behalf, must be reachable, either on site or by phone, from the time of the arrival of the production equipment including any staging material through the time of departure.
- Licensee agrees to include Owners "SevenVenues" logo in all marketing material. Logo can be obtained by contacting our marketing department at (757) 664-6863.
- Use of open flame is **NOT** permitted unless approved by City of Norfolk representative.
- Cleaning fee is **\$1,600.00 per day.** Please Note: Use of confetti, glitter, rice, red wine, chocolate fountains, etc. may incur additional cleaning fees which will be in addition to the Base Expense Cap.
- Should Agreement and any required Deposit not be provided to Department by due date, Agreement will be null and void, unless a longer time is agreed to in writing by the parties in regard to the provision of the Agreement and any required Deposit being provided by a later date.

EXHIBIT E**COVID-19 CONSIDERATIONS**

- Licensee agrees that at the time of the signing of this agreement that the Owner and the facility are under the guidance of State Orders during a global pandemic (COVID-19) that may or may not impact Licensee's ability to produce the Event as stated above.
- Licensee agrees to be responsible for all risk as it relates to the production of the Event.
- Licensee agrees that Owner will not be liable for any cancellation or postponement of Event due to COVID-19 or any other pandemic, or naturally occurring outbreak.
- Licensee agrees to adhere to and assist in enforcing all additional policies and procedures as they relate to COVID-19 mitigation.
- Licensee acknowledges and agrees that any person or persons representing the Licensee on site, as well as any contracted or touring staff, crew or Artists' staff or performers, that person or persons will be subject to any screenings and policies that are currently in place at the time of the Event to include, but not limited to, temperature screenings, mask wearing, physical distancing, gloves and potential off-site temporary office locations.
- Licensee agrees that should Licensee's agents, employee, contractor or other representative, as well as any contracted or touring staff, crew or Artists' staff or performers arrive on site and fail any of the above screenings or fail to adhere to any of the Owner's current policies and procedures, Owner has the right to remove Licensee and/or representative from the premises and is not liable for any costs associated with said removal.
- Licensee agrees that Owner shall not be liable for any overages or additional costs associated with the removal of any of the Licensee's agents, employee, contractor or other representative, or the removal of any contracted or touring staff, crew or Artists' staff or performers, due to failure to adhere to Owner screenings or due to personnel's' failed health screening.

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Exhibit F

Description	Date	Detail Time	Estimate
Youth Tournament - Day 1	Thu, Jan 12	Doors 2:00p Event 3:00p - 9:00p	\$ 4,391.50
Admirals regular season game	Fri, Jan 13	Admirals agreement	
Admirals regular season game	Sat, Jan 14		
Youth Tournament - Day 4	Sun, Jan 15	Doors 8:00a Event 9:00a - 5:00p	\$ 5,230.82
ECHL All Star Game	Mon, Jan 16	Doors 6:00p Event 7:00p - 10:00p	\$ 7,926.89
Stanley Cup Fan Fest <i>location TBD</i>	TBD	Doors TBD - 1 hr. prior Event 4 hours	\$ 1,932.92

Categories

Expense cap	\$ 50,000.00
Actual expense	\$ 36,788.13
Difference	\$13,211.87

SUB-TOTAL	\$ 19,482.13
Utilities	\$ 9,000.00
Cleaning	\$ 8,306.00
TOTAL EXP	\$ 36,788.13

Youth Tournaments	\$ 9,622.32
All Star Game	\$ 7,926.89
Stanley cup photo op	\$ 1,932.92
Utilities \$3,000 x 3 days	\$ 9,000.00
2 - O/N cleaning (\$4,153 - contract)	\$ 8,306.00